THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.11297 of 1997

Dated: 08-12-2006

BETWEEN:
Hanumantha Bhagyavati Petitioner

And

The Joint Collector, Srikakulam, Srikakulam Dist. and two others
Respondents

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.11297 OF 1997

ORDER:

1. This writ petition has been instituted questioning the orders passed by the Joint Collector, Srikakulam in his proceedings dated 03.05.1997. The Joint Collector after putting the writ petitioner on notice on 27-02-1997, had passed the impugned order holding that the writ petitioner had misrepresented the facts and secured assignment of the land of an extent of Ac.0.02 cents as a house site patta on the ground that she is a landless poor person. It has been specifically averred that the writ petitioner owns lands measuring an extent of Ac.2.43 cents at Talagam and Vemulada villages and that she also owns a thatched house in Talagam of Tekkali Mandal. In spite of her receiving a show cause notice, the writ petitioner has not preferred to file any explanation except sending a reply through her advocate pointing out that she has instituted a civil suit O.S.No.146 of 1996 seeking an injunction and that she has also moved I.A.No.168 of 1996 therein and since the said suit is pending, the proposed action is wholly unwarranted. The Joint Collector has observed that since no injunction has been granted by the court, the Revenue Administration is free to proceed in the matter. Therefore, he had arrived at a conclusion that the writ petitioner had secured assignment of Ac.0. 02 cents of land as house site patta by suppressing the above.

2. Sri Ravi Sanker Jandyala, the learned counsel for the petitioner would urge that a person who possesses or owns dry land of an extent of Ac.2.43 cents is still liable to be treated or considered as a landless person only and cannot be rendered ineligible to seek assignment of land. The learned

counsel would also urge that even according to the finding of the Revenue Administration, the writ petitioner was not alleged to be owning any such land in Seethapuram village and the land owned by her at Talagam village does not render her ineligible to seek such an assignment.

3. Per contra, the learned Government Pleader for Social Welfare would urge that granting house site pattas by the State Government is a socialistic measure to help and aid the socially vulnerable sectors to enable them to live with dignity and honour by raising or constructing a house of their own at a place where they intended to live. The scarce resources of the State have to be equitably distributed and therefore, the State is pursuing as a policy such measures which enable it to choose the most deserving amongst the eligible sectors and segments for grant of assignment. Therefore, the learned Government Pleader would urge that if the writ petitioner ceases to reside in the village where the house site patta has been granted, cancellation of such a house site patta does not become illegal at all.

4. The civil suit instituted by the writ petitioner, a reference to which has been made in Para 5 of the affidavit filed in support of the writ petition has already been pointed out to have become infructuous, as stated at Para 8 of the same affidavit and therefore, it should not come in the way of Revenue Administration deciding the matter.

5. Only question which calls for consideration is whether the writ petitioner can be declared as ineligible to seek grant of house site patta in her favour at Seethapuram.

6. It is not in dispute that the Joint Collector, Srikakulam before passing the impugned order has put the writ petitioner on notice. The Joint Collector has specifically averred that the writ petitioner owns land of an extent of Ac.2.43 cents, no doubt altogether in a different village. He had also asserted that the writ petitioner owns a house at another village. But the fact remains that he has not returned a finding that the lands in question are either wet lands or dry lands and whether such a person can still be declared as a

landless poor person or not. However, if the writ petitioner is not residing at Seethapuram village where she got the land assigned in her favour as house site patta, no fault would lie in the State Administration either canceling or retrieving such a house patta to enable it to allot or assign it in favour of yet another eligible person but if the writ petitioner is continuously residing therein it will be improper to either cancel the patta or resume the possession of the said land without determining the basic eligibility of the petitioner to be assigned such land. I therefore, leave it open to the Revenue Administration to firstly ascertain as to whether the writ petitioner is continuously residing in the same village namely Seethapuram where the house site patta has been granted in her favour or not and only if she is not residing in the said village, as could be ascertained from the Village Administrative Officer, Sarpanch or any other residents of the locality, then alone the cancellation of the house site patta granted in her favour will become effective. On the contrary, if the writ petitioner is found to be residing in the said village, unless the Revenue Administration determines about her eligibility after providing her an opportunity to rebut the allegations against her, she cannot be evicted or the house site patta granted in her favour cannot be cancelled.

7. With these observations, the writ petition stands disposed of. No order as to costs.

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NOOTY RAMAMOHANA RAO,J

08-12-2006

Stp